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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.1198 OF 1996

Maharashtra State Road Transport Corporation having its office at Maharashtra Vahatuk Bhavan Dr.A.N. Marg, Bombay-8.)
)
)
).. PETITIONER

VERSUS

1) Smt.Vandana Prakash Dalvi age 23 yrs., Occ.: Household R/o.Jam Khurd, Tal. Koregaon Dist.: Satara.)
)
)
)
2) Sou.Sindhu Tukaram Dalvi Age about 45, Occ.: Household)
)
3) Tukaram Laxman Dalvi Age about 55, Occ.: NTC)
)
) Both R/o. Post Diskal)
) Tal.: Khatav, Dist.: Satara).. RESPONDENTS

Mr.C.M.Lokesh i/b.Mr.G.S. Hegde for the Petitioner.

Mr.R.R. Bharvale i/b.Smt.Vijaymala Bhosale for Respondent No.1.

None present for Respondent Nos.2 and 3.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 19TH SEPTEMBER 2006

ORAL JUDGMENT :

. This Petition has been filed by the Maharashtra State Road Transport Corporation challenging the order passed by the Commissioner for Workmen's Compensation in W.C. Application No.133 of 1991.

2. The husband of the first Respondent was employed as a Conductor with the Petitioner Corporation. He met with an accident arising out of and during the course of employment. Respondent No.1 preferred an application for compensation under the Workmen's Compensation Act. The Petitioner had deposited an amount of Rs.79,760/- with the Commissioner for Workmen's Compensation after the accident occurred. The application preferred by Respondent No.1 was decided on 4th February 1992. The Commissioner for Workmen's Compensation directed that the amount deposited by the Petitioner should be paid over to the first Respondent.

3. It appears that Respondent Nos.2 and 3 preferred an application under the Motor Vehicles Act claiming compensation of the death of their son, the husband of Respondent No.1. That application was filed after the application before the Commissioner for Workmen's Compensation was filed. It was decided on 7th April 1995.

4. The Petitioner by way of this Petition has challenged the order passed by the Commissioner for Workmen's Compensation only on the ground that the Respondents could have claimed compensation either under the Workmen's Compensation Act or the Motor Vehicles

Act.

5. Respondent No.1, who is the wife of the deceased, has opted to file a claim under the Workmen's Compensation Act. The claim has been granted. She is, therefore, entitled to the amount deposited with the Commissioner for Workmen's Compensation. Respondent No.1 cannot be denied this relief only because the parents of the deceased had chosen to file an application under the Motor Vehicles Act, much later.

6. In my view, since the application under the Workmen's Compensation Act was filed prior in point of time, the amount deposited before the Commissioner for Workmen's Compensation must be paid to Respondent No.1. Whether she is entitled to the entire amount as an heir of the deceased or Respondent Nos.2 and 3 are also entitled to a part of the amount, is not a question which can be decided by this Court in its writ jurisdiction.

7. Writ Petition dismissed. Rule discharged. No order as to costs.